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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: _____

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Attorneys for Defendants Take-Two
Interactive Software, Inc. and Rockstar
Games, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

ED CV 13 - 02032 SPx
CASE NO. **VAP**

BRUCE MCMAHON, on behalf of
himself; CHRISTOPHER
BENGSTON, on behalf of himself;
and all others similarly situated,

Plaintiffs,

v.

TAKE-TWO INTERACTIVE
SOFTWARE, INC. AND TAKE-TWO
INTERACTIVE SOFTWARE INC.,
DBA "ROCKSTAR"; and DOES 1
through 100, inclusive,

Defendants.

**DEFENDANTS TAKE-TWO
INTERACTIVE SOFTWARE, INC.
AND ROCKSTAR GAMES, INC.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441, 1446, and 1453, Defendants Take-Two Interactive Software, Inc. and Rockstar Games, Inc. (erroneously sued as Take – Two Interactive Software Inc., DBA “Rockstar”) (collectively, “Defendants”) removes this action from the Superior Court of the State of California for the County of Riverside (the “Riverside County Superior Court”), on the following grounds:

Defendants’ Compliance with the Procedural Requirements for Removal

1. Defendants are the only two named defendants in the action styled *Bruce McMahon, on behalf of himself; Christopher Bengston, on behalf of himself; and all others similarly situated v. Take-Two Interactive Software, Inc. and Take-Two Interactive Software Inc., DBA “Rockstar”, and Does 1 through 100, inclusive*, which is pending as Case No. 1311350 in the Riverside County Superior Court (the “State Court Action”).

2. The Complaint in the State Court Action (the “Complaint”) was filed on October 4, 2013.

3. The Complaint was served on Defendants on or about October 7, 2013.

4. In accordance with 28 U.S.C. § 1446(b) and Fed. R. Civ. P. 6(a), Defendants are filing this Notice of Removal within thirty (30) days of service of the Complaint.

5. In accordance with 28 U.S.C. § 1446(a), Defendants attach copies of all process, pleadings, and orders served on it in the State Court Action as Exhibit A.

6. Promptly after filing this Notice of Removal, Defendants will give written notice of the removal to Plaintiffs through their attorneys of record in the State Court Action, as well as to the Clerk of the Court in the State Court action, as required by 28 U.S.C. § 1446(d).

7. This case properly may be removed to this United States District Court pursuant to 28 U.S.C. §§ 1332, 1441(a), and 1453. The Riverside County Superior Court is located within the jurisdiction of the United States District Court for the Central District of California, Eastern Division.

8. As set forth more fully below, removal is proper under 28 U.S.C. §§ 1332(d) and 1453 because this case is (a) a class action (b) in which the Plaintiffs and the putative class members are citizens of a state different from Defendants and (c) the Plaintiffs allegations indicate that the matter in controversy exceeds \$5,000,000.¹

Citizenship of the Parties

9. According to the Complaints, Plaintiffs Bruce McMahon and Christopher Bengtson (collectively, "Plaintiffs") are California citizens. (Compl. ¶¶ 13-14.)

10. The Complaint seeks relief on behalf of a putative class of California residents, in that it defines the putative class as "All persons who purchased the GTA V ("Grand Theft Auto V") videogame in the State of California." (Compl. ¶ 41.)

11. Defendant Take-Two Interactive Software, Inc. is a Delaware corporation with its principal place of business in the State of New York. (Compl. ¶ 11.) Take-Two Interactive Software, Inc. owns numerous subsidiary companies, including Rockstar Games, Inc.

12. Defendant Take-Two Interactive Software Inc., DBA "Rockstar" does not exist. (Compl. ¶ 11.) To the extent Plaintiffs intended to sue Rockstar Games, Inc., it is a Delaware Corporation with a principal place of business in the state of New York.

13. Pursuant to 28 U.S.C. § 1441(a), the "citizenship of defendants sued under fictitious names shall be disregarded."

¹ The Complaint at ¶ 55 seeks a refund for class members. The purchase price for the regular edition of Grand Theft Auto V is \$59.99 and, on information and belief, at least 85,000 full price copies of Grand Theft Auto V have been sold in California. Thus, the requested refund exceeds \$5,000,000.

1 14. Thus, there is complete diversity of citizenship between the named
2 Plaintiffs and the members of the putative class (California), on the one hand, and
3 the named Defendants (Delaware and New York), on the other hand.

4 **Removal Pursuant to 28 U.S.C. §§ 1332(d) and 1453**

5 15. Pursuant to 28 U.S.C. § 1332(d) and 1453, a “class action” may be
6 removed where “any member of a class of plaintiffs is a citizen of a State different
7 from any defendant” and “the matter in controversy exceeds the sum or value of
8 \$5,000,000.” 28 U.S.C. § 1332(d)(2). For purposes of satisfying the \$5,000,000
9 jurisdictional requirement, “the claims of the individual class members shall be
10 aggregated.” 28 U.S.C. § 1332(d)(6).

11 16. The State Court Action is a “class action” in which Plaintiffs are
12 citizens of a state (California) different than the Defendants (Delaware and New
13 York). *See* 28 U.S.C. § 1332(d)(1)-(2).

14 17. According to the Complaint, the amount in controversy exceeds
15 \$5,000,000. The Complaint alleges that Plaintiff and other members of the putative
16 class were induced to spend \$59.99 for a copy of the video game Grand Theft Auto
17 V that they would not otherwise have purchased had they known that a free game
18 feature, GTA Online, would not be available until October 1, up to two weeks after
19 Plaintiffs purchased Grand Theft Auto V. (Compl. ¶¶ 10-12.) Specifically,
20 Plaintiffs seek “a refund” of “monies” that Plaintiffs and Class members “paid for
21 the defective and inactive videogame.” (Compl. ¶ 55.) Plaintiffs also seek “a
22 refund” of “monies” that Plaintiffs and Class members “paid for the defective and
23 inactive ‘on-line’ play of the videogame.” (Compl. ¶ 63.) Based on these
24 allegations, Plaintiff alleges claims (1) under Cal. Bus. and Prof. Code § 17500 and
25 (2) under Cal. Bus. and Prof. Code § 17200. (Compl. ¶¶ 50-63.)

26 18. Defendants dispute Plaintiffs’ characterization of the requested relief
27 and denies Plaintiffs’ allegations and claims. Without prejudice to Defendants’
28 defenses in this action, Defendants have sold at least 85,000 separate copies of

1 Grand Theft Auto V in California at a retail price of \$59.99. Accordingly, since
2 Plaintiffs seek a "refund" of a "\$59.99" purchase price paid by "[a]ll persons who
3 purchased the GTA V videogame in the State of California" then the amount in
4 controversy exceeds \$5,000,000.

5 19. Accordingly, because the State Court Action is a putative class action
6 between citizens of different states and involves in excess of \$5,000,000, removal is
7 proper pursuant to 28 U.S.C. § 1332(d) and 1453.

8 WHEREFORE, Defendants hereby remove the State Court Action filed by
9 Plaintiffs Bruce McMahon and Christopher Bengtson from the Riverside County
10 Superior Court to this Court.

11 DATED: November 6, 2013

KELLEY DRYE & WARREN LLP
Keri E. Borders

12
13
14 By



Keri E. Borders

Attorneys for Defendants Take-Two
Interactive Software, Inc. and Rockstar
Games, Inc.

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15 Attorneys for Plaintiffs, BRUCE McMAHON;
 16 CHRISTOPHER BENGTON, and all others similarly situated

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA,**
 18 **COUNTY OF RIVERSIDE**

19 BRUCE McMAHON, on behalf of himself;
 20 CHRISTOPHER BENGTON, on behalf of
 21 himself; and all others similarly situated,

22 Plaintiffs,

23 vs.

24 TAKE-TWO INTERACTIVE SOFTWARE, INC;
 25 TAKE-TWO INTERACTIVE SOFTWARE,
 26 INC., DBA "ROCKSTAR"; and DOES I through
 27 100, inclusive,

28 Defendants.

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE

OCT 04 2013

R. Alessandro

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RIC 1311350

Case No.

ASSIGNED FOR INITIAL PURPOSES TO
 JUDGE:
 DEPT:

CLASS ACTION COMPLAINT

- 1) Violations of California's False Advertising
 Laws, Cal.Bus. & Prof.Code §§ 17500, et seq
 2) California's Unfair Competition Law,
 Cal.Bus. & Prof. Code §§ 17200, et seq.

JURY TRIAL DEMANDED

Class Action Complaint

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1 Plaintiff, BRUCE McMAHON, on behalf of himself and Plaintiff, CHRISTOPHER
 2 BENGTON, on behalf of himself, and all others similarly situated, based on the investigation
 3 of their counsel and their personal experiences, alleges as follows:

4 **NATURE OF THE ACTION**

5 1. Defendant TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two
 6 Interactive Software, Inc. dba "ROCKSTAR", ("Defendant") is a software company that
 7 produces video games and distributes said video games for sale in California, USA. TAKE-
 8 TWO INTERACTIVE SOFTWARE, INC., and/or Take Two Interactive Software, Inc. dba
 9 "ROCKSTAR" develops, manufactures, and markets a wide range of video games that are
 10 played on Xbox 360 and/or PlayStation 3.

11 2. On September 17, 2013, TAKE-TWO INTERACTIVE SOFTWARE, INC.,
 12 and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" introduced the release of the
 13 game "Grand Theft Auto V (Five)" ("GTA V"). The GTA V was advertised as a state-of-the-
 14 art game that would provide without reservation "Online Multiplayer 2-16" and "co-op 2-16".
 15 The game advertised and displayed on its product that the purchaser would experience on-line
 16 interaction with others that also play the same game on the same type of system. The game
 17 was to provide a great online experience for those videogame players and other persons who
 18 needed, and were willing to pay a premium for it.

19 3. On September 17, 2013, Plaintiffs, BRUCE McMAHON and CHRISTOPHER
 20 BENGTON, ("Plaintiffs") each individually and separately bought a GTA V game for
 21 \$59.99, exclusive of tax.

22 4. Plaintiffs purchased the game with the intent, purpose and desire to use the
 23 game for on-line play with other videogame players.

24 5. At the time of purchase on September 17, 2013 Plaintiffs were unable to play
 25 the game as an on-line experience with other videogame players. GTA V was not available for
 26 on-line play as advertised. GTA V can only be played in single player mode without the ability
 27 to interact with any other videogame player.
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Class Action Complaint

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1 Civil Procedure section 395. TAKE-TWO INTERACTIVE SOFTWARE, INC. is a Delaware
 2 Corporation. And Take-Two Interactive Software, Inc. dba "ROCKSTAR" is a business entity
 3 unknown.

4 12. TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two
 5 Interactive Software, Inc. dba "ROCKSTAR" is engaged in the sales and distribution of GTA
 6 V throughout the state of California. This Court has jurisdiction over Defendant because,
 7 among other things, it engaged in illegal schemes and acts directed at and that had the intended
 8 effect of causing injury to persons residing in, located in, or doing business in this Judicial
 9 District and throughout the state of California. The unlawful acts alleged herein have a direct
 10 effect on Plaintiff and those similarly situated within the State of California. Defendant is
 11 within the jurisdiction of this Court for service of process purposes.

12 **A. Plaintiffs**

13 13. Plaintiff BRUCE McMAHON is a resident of the County of Riverside,
 14 California. On September 17, 2013, Plaintiff purchased his GTA V videogame from a Game
 15 Stop store located in the state of California, County of Riverside. He paid \$59.99 for the game
 16 not including California sales tax.

17 14. Plaintiff CHRISTOPHER BENGTON is a resident of California. On
 18 September 17, 2013, Plaintiff purchased his GTA V videogame from a Game Stop store
 19 located in the state of California. He paid \$59.99 for the game not including California sales
 20 tax.

21 15. Plaintiffs, and the Class they seek to represent, were all required to pay a
 22 premium price for the videogame at any of multiple distribution locations throughout
 23 California beginning sales on September 17, 2013 and continuing through present.

24 16. The GTA V was advertised as a state-of-the-art game that would provide
 25 without reservation "Online Multiplayer 2-16" and "co-op 2-16". The game advertised and
 26 displayed on its product that the purchaser would experience on-line interaction with others
 27 that also play the same game on the same type of system. The game was to provide a great
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Class Action Complaint

1 online experience for those videogame players and other persons who needed, and were willing
2 to pay a premium for it.

3 **B. Defendants**

4 17. TAKE-TWO INTERACTIVE SOFTWARE, INC. is a Delaware Corporation
5 and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" is a business entity unknown,
6 are engaged in worldwide distribution of videogame software and more specifically,
7 throughout the state of California at numerous distribution locations.

8 18. The true names and capacities of Defendants, whether individual, corporate,
9 associate, or otherwise, sued herein as DOES 1 through 100, inclusive, are currently unknown
10 to Plaintiffs, who therefore sues Defendants by such fictitious names under Code of Civil
11 Procedure section 474. Plaintiffs are informed and believe, and based thereon allege that each
12 of the Defendants designated herein as a DOE is legally responsible in some manner for the
13 unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to
14 reflect the true names and capacities of the Defendants designated hereinafter as DOES when
15 such identities become known.

16 19. Plaintiffs are informed and believe, and based thereon allege, that Defendants
17 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
18 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
19 Defendant are legally attributable to the other Defendants.

20 **JURISDICTION AND VENUE**

21 20. This class action is brought pursuant to California Code of Civil Procedure
22 §382. The monetary damages and restitution sought by Plaintiff exceeds the minimum
23 jurisdiction limits of the California Superior Court and will be established according to proof at
24 trial.

25 21. This Court has jurisdiction over this action pursuant to the California Constitution
26 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except
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Class Action Complaint

1 those given by statute to other courts. The statutes under which this action is brought do not give
2 jurisdiction to any other court.

3 22. This Court has jurisdiction over Defendants because, upon information and belief, each
4 Defendant is either a resident of California, has sufficient minimum contacts in California, or otherwise
5 intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by
6 the California Courts consistent with traditional notions of fair play and substantial justice. Defendants
7 have done and are doing business throughout California and Orange and Riverside Counties by
8 distributing and selling GTA V. The unlawful acts alleged herein have a direct effect on Plaintiff and
9 the other similarly situated persons whom purchased GTA V from any of the numerous retail stores that
10 distribute it here in Riverside County and throughout the state of California.

11 23. Venue is proper in this Court because upon information and belief, one or more of the
12 Defendants reside, transact business, or have offices in this County, Plaintiff is a resident of this
13 County, and the acts or omissions alleged herein took place in this County.

14 **SUBSTANTIVE ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

15
16 24. TAKE-TWO INTERACTIVE SOFTWARE, INC. is a Delaware Corporation,
17 and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" a business entity unknown, are
18 videogame software companies.

19
20 25. On September 17, 2013 TAKE-TWO INTERACTIVE SOFTWARE, INC.,
21 and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" introduced Grand Theft Auto
22 V ("GTA V") for distribution at numerous locations throughout the state of California.

23 26. The GTA V was advertised as a state-of-the-art game that would provide
24 without reservation "Online Multiplayer 2-16" and "co-op 2-16". The game advertised and
25 displayed on its product that the purchaser would experience on-line interaction with others
26 that also play the same game on the same type of system. The game was to provide a great
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1 online experience for those videogame players and other persons who needed, and were willing
2 to pay a premium for it.

3 27. TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive
4 Software, Inc. dba "ROCKSTAR" charged/charges a premium price to purchase the GTA V
5 game.

6 28. TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive
7 Software, Inc. dba "ROCKSTAR" knew that the GTA V game would not be available for "on-
8 line" interaction at the time the game was released on September 17, 2013.

9 29. As of the filing of this complaint, GTA V is not currently available to
10 participate in "on-line" interaction and/or play.

11 30. TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive
12 Software, Inc. dba "ROCKSTAR" did not cause any type of notice to any of the GTA V
13 purchasers at the time of purchase that the game did not currently include "on-line" play as
14 clearly advertised on its product.

15 31. By advertising the GTA V videogame as having "on-line" interaction and/or
16 play, TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive
17 Software, Inc. dba "ROCKSTAR" knew or should have known that consumers expected the
18 game to perform as it is advertised on the product. TAKE-TWO INTERACTIVE
19 SOFTWARE, INC., and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" failed to
20 disclose that "on-line" interaction and/or play was not currently available.

21 32. TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive
22 Software, Inc. dba "ROCKSTAR" is not able to currently offer "on-line" interaction and/or
23 play for any of the consumers that purchased GTA V.

24 33. Like other purchasers of GTA V, Plaintiff was deceived by TAKE-TWO
25 INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive Software, Inc. dba
26 "ROCKSTAR" representations concerning the videogame. Before purchasing GTA V Plaintiff
27 read all of the disclosures and promises made on the product case.
28

Class Action Complaint

1 34. Plaintiff purchased GTA V on September 17, 2013. Based on advertisements
 2 and guarantees made on the product regarding "on-line" interaction Plaintiff anticipated
 3 playing the game "on-line." When Plaintiff attempted to play GTA V he was unable to
 4 connect to "on-line" interaction. The game simply states that "on-line" interaction is
 5 unavailable.

6 35. The "on-line" feature is not accessible as advertised and guaranteed by TAKE-
 7 TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive Software, Inc. dba
 8 "ROCKSTAR"

9 36. TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive
 10 Software, Inc. dba "ROCKSTAR" failed to provide any notice and/or warning that the "on-
 11 line" portion of the GTA V was not available.

12 37. Plaintiffs purchased the GTA V videogame with the intent of playing "on-line"
 13 interaction with his friends that also owned his same system and also purchased the GTA V
 14 videogame.

15 38. Plaintiffs would not have purchased the GTA V videogame on September 17,
 16 2013 at a premium price had he been informed that the "on-line" interactive component of the
 17 game was not available.

18 39. Every consumer that purchased the GTA V was and is unable to access the "on-
 19 line" interactive component of GTA V.

20 40. Accordingly, Plaintiffs brings this case as a class action and seeks equitable and
 21 injunctive relief, for himself and members of the proposed Class.

22 CLASS ACTION ALLEGATIONS

23 41. Plaintiffs brings this class action on behalf of themselves and all other members
 24 of a proposed plaintiff Class ("Class") initially defined as:

25 **"All persons who purchased the GTA V videogame in the State of California."**

26 42. This action has been properly brought and may properly be maintained as a
 27 class action under California Code of Civil Procedure and case law thereunder.
 28

Numerosity of Class

43. Class members are so numerous that their individual joinder is impractical. Plaintiff estimates that the Class comprises millions of members. The precise number of Class members and their addresses are unknown to Plaintiff at this time, but can be ascertained by notifying GTA V purchasers that a claim has been made on behalf of all Class members that purchased GTA V. Class members may be notified of the pendency of this action by published notice.

Predominance of Common Questions of Fact and Law

44. Common questions of law and fact exist as to all members of the Class. These questions predominate over the questions affecting only individual Class members. The common legal and factual question include:

(a) Whether TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" represented that the GTA V was a state-of-the-art game that would provide without reservation "Online Multiplayer 2-16" and "co-op 2-16";

(b) Whether TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" failed to disclose or adequately disclose material information, namely, that "on-line" interactive play was not available at time of purchase;

(c) Whether TAKE-TWO INTERACTIVE SOFTWARE, INC., and/or Take-Two Interactive Software, Inc. dba "ROCKSTAR" multiplayer "on-line" interactive was defective and/or unavailable at the time of purchase;

(d) Whether Defendant knew or should have known that the GTA V was defective and/or unavailable;

(e) Whether Defendant's conduct as alleged herein violates the Consumers Legal Remedies Act;

(f) Whether Defendant's conduct as alleged herein violates the False Advertising Law;

(g) Whether Defendant's conduct as alleged herein violates the Unfair Competition

Class Action Complaint

1 Law; and

2 (h) The nature of the relief, including equitable relief, to which Plaintiff and Class
3 members are entitled.

4 **Typicality of Claims**

5 45. Plaintiff's claims are typical of the claims of the Class because Plaintiff, like all
6 other Class members, bought a GTA V videogame that promised an "on-line" interactive play
7 that was not available at the time of the purchase.

8 **Adequacy of Representation**

9 46. Plaintiffs are adequate representatives of the Class, because their interests do not
10 conflict with the interests of the members of the Class and he has retained counsel competent
11 and experienced in complex class action.

12 47. The interests of the Class members will be fairly and adequately protected by
13 Plaintiff and his counsel.

14 **Superiority of a Class Action**

15 48. A class action is superior to other available means for the fair and efficient
16 adjudication of the claims of Plaintiffs and Class members. The damages suffered by each
17 individual Class member, while significant, are small given the burden and expense of
18 individual prosecution of the complex and extensive litigation necessitated by Defendant's
19 conduct. Further, it would be virtually impossible for the members of the Class individually to
20 redress effectively the wrongs done to them. And, even if the members of the Class themselves
21 could afford such individual litigation, the court system could not, given the many cases that
22 would need to be filed.

23 49. Individualized litigation would also present a potential for inconsistent or
24 contradictory judgments. Individualized litigation would increase the delay and expense to all
25 parties and the court system, given the complex legal and factual issues involved. By contrast,
26 the class action device presents far fewer management difficulties and provides the benefits of
27 single adjudication, economy of scale, and comprehensive supervision by a single court.

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Class Action Complaint

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FIRST CAUSE OF ACTION

5 (For Violations of California's False Advertising Laws, Cal.Bus. & Prof.Code §§ 17500, et
6 seq.)

7 50. Plaintiffs incorporate by reference and reallege all paragraphs previously
8 alleged as if fully set forth herein and further alleges as follows.

9 51. The conduct and actions of Defendant complained of herein constitute false
10 advertising in violation of the False Advertising Law ("FAL"). *Cal.Bus. & Prof.Code §§*
11 *17500, et seq.*

12 52. Among other things, Defendant made representations and failed to disclose or
13 adequately disclose material information regarding its GTA V videogame that it knew, or
14 should have known, were deceptive and likely to cause reasonable consumers to buy the
15 monitors in reliance upon said representation. Defendant intended for Plaintiff an Class
16 members to rely on these representations and Plaintiff and Class members did rely on
17 Defendant's representations.

18 53. Defendant committed such violations of the FAL with actual knowledge or
19 knowledge fairly implied on the basis of objective circumstances.

20 54. As a result of Defendant's wrongful conduct, Plaintiff suffered injury in fact and
21 lost money or property.

22 55. Accordingly, Plaintiffs, on behalf of themselves and all others similarly situated,
23 seeks equitable relief in the form of an order requiring Defendant to refund Plaintiffs and Class
24 members monies paid for the defective and inactive videogame and/or to make appropriate
25 repairs to GTA V so that the consumer may play "on-line" interactive in addition to
26 compensation for the time consumer's reasonable expectations were violated.

27

SECOND CAUSE OF ACTION

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Class Action Complaint

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(For Violations of the California's Unfair Competition Law, Cal. Bus. & Prof. Code §§
17200, et seq.)

56. Plaintiff incorporates by reference and realleges all paragraphs previously
alleged as if fully set forth herein and further alleges as follows.

57. The conduct and actions of Defendant complained of herein constitute unlawful,
unfair and/or fraudulent actions in violations of the Unfair Competition Law ("UCL"). Cal.
Bus. & Prof. Code §§ 17200, et seq.

58. Defendant's practices constitute "unlawful" business practices in violation of
the UCL because, among other things, they violate the CLRA and the FAL.

59. Defendant's actions and practices constitute "unfair" business practices in
violation of the UCL, because, among other things, they are immoral, unethical, oppressive,
unscrupulous or substantially injurious to consumers, and/or any utility of such practices is
outweighed by the harm caused consumers. Defendant's actions violate the legislative policy
of protecting consumers and preventing persons from advertising defective products and not
adequately disclosing those defects. Defendant's practices caused substantial injury to Plaintiff
and Class members, are not outweighed by any benefits, and Plaintiff and Class members could
not have reasonably avoided this injury.

60. Defendant's actions and practices constitute "fraudulent" business practices in
violation of the UCL because, among other things, they have a capacity and tendency to
deceive members of the public. Defendant intended for Plaintiff and Class members to rely on
its representation and Plaintiff did rely on Defendant's representations.

61. Defendant's affirmative representations as alleged herein imposed on Defendant
the duty to disclose the defect and inactivity of the GTA V videogame because consumers were
likely to be deceived regarding the actual capabilities of the videogame at time of purchase.

62. As a result of Defendant's wrongful conduct as alleged herein, Plaintiff has
suffered injury in fact and has lost money or property. Plaintiff and Class members were all
induced to pay a premium price for a videogame that did not perform as represented.

Class Action Complaint

63. Accordingly, Plaintiffs, on behalf of themselves and all others similarly situated, seeks equitable relief in the form of an order requiring Defendant to refund Plaintiff and Class members monies paid for the defective and inactive "on-line" play of the videogame and/or to make appropriate repairs to GTA V so that the consumer may play "on-line" interactive in addition to compensation for the time consumer's reasonable expectations were violated.

PRAYER

WHEREFORE, Plaintiffs, on behalf of themselves and Class members, prays for relief as follows:

- That the Court determine this action may be maintained as a class action, that Plaintiff be appointed Class representative, and that Plaintiff's counsel be appointed as counsel for the Class;
- For an order requiring Defendant to refund Plaintiff and Class members monies paid for the defective and inactive "on-line" play of the videogame and/or to make appropriate repairs to GTA V so that the consumer may play "on-line" interactive in addition to compensation for the time consumer's reasonable expectations were violated.
- For an order prohibiting Defendant from engaging in the alleged misconduct described herein;

For damages according to proof;

- For an award of the costs of suit incurred herein, including expert witness fees;
- For an award of interest, including prejudgment interest, at the legal rate; and
- For such other and further relief as this Court deems just and proper.

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Class Action Complaint

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Rex Sofonio, Esq. 190671 Sofonio & Associates, Inc. 2030 Main Street, Suite 1300 Irvine, CA 92614-7220 TELEPHONE NO.: (949) 260-9191 FAX NO.: (949) 260-9192 ATTORNEY FOR (Name) BRUCE McMAHON; CHRIS COLES		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME: Riverside Branch		
CASE NAME: McMAHON v. TAKE-TWO		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER RIC 1311350 JUDGE DEPT.

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case: Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☒ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 2
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 10/3/2013

REX P. SOFONIO, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 (Rev. July 1, 2007)Martin Drenth
ESSENTIAL FORMS™**CIVIL CASE COVER SHEET**Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740,
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

BRUCE McMAHON

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

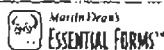
To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort Auto (22)-Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i> Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability <i>(not asbestos or toxic/environmental)</i> (24) Medical Malpractice (45) Medical Malpractice-Physicians & Surgeons Other Professional Health Care Malpractice Other PI/PD/WD (23) Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other PI/PD/WD Non-PI/PD/WD (Other) Tort Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) Legal Malpractice Other Professional Malpractice <i>(not medical or legal)</i> Other Non-PI/PD/WD Tort (35) Employment Wrongful Termination (36) Other Employment (15)	Contract Breach of Contract/Warranty (06) Breach of Rental/Lease Contract <i>(not unlawful detainer or wrongful eviction)</i> Contract/Warranty Breach-Seller Plaintiff <i>(not fraud or negligence)</i> Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case-Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage <i>(not provisionally complex)</i> (18) Auto Subrogation Other Coverage Other Contract (37) Contractual Fraud Other Contract Dispute Real Property Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i> Unlawful Detainer Commercial (31) Residential (32) Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i> Judicial Review Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) Writ-Administrative Mandamus Writ-Mandamus on Limited Court Case Matter Writ-Other Limited Court Case Review Other Judicial Review (39) Review of Health Officer Order Notice of Appeal-Labor Commissioner Appeals	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403) Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41) Enforcement of Judgment Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment <i>(non-domestic relations)</i> Sister State Judgment Administrative Agency Award <i>(not unpaid taxes)</i> Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case Miscellaneous Civil Complaint RICO (27) Other Complaint <i>(not specified above)</i> (42) Declaratory Relief Only Injunctive Relief Only <i>(non-harassment)</i> Mechanics Lien Other Commercial Complaint Case <i>(non-tort/non-complex)</i> Other Civil Complaint <i>(non-tort/non-complex)</i> Miscellaneous Civil Petition Partnership and Corporate Governance (21) Other Petition <i>(not specified above)</i> (43) Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief from Late Claim Other Civil Petition
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CM-010 [Rev. July 1, 2007]



CIVIL CASE COVER SHEET

Page 2 of 2

BRUCE MCMAHON

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF ASSIGNMENT TO DEPARTMENT FOR CASE MANAGEMENT, AND LAW AND
MOTION PURPOSES, AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

MCMAHON VS. TAKE-TWO INTERACTIVE SOFTWARE INC

CASE NO. RIC 1311350

This case is assigned to the Honorable Judge Gloria Connor Trask
in Department 03 for case management and law and motion
purposes.

The Case Management Conference is scheduled for 12/04/13
at 8:30 in Department 03.

The plaintiff/cross-complainant shall serve a copy of this notice on
all defendants/cross-defendants who are named or added to the
complaint and file proof of service.

Any disqualification pursuant to CCP Section 170.6(a)(2) shall be
filed in accordance with that section.

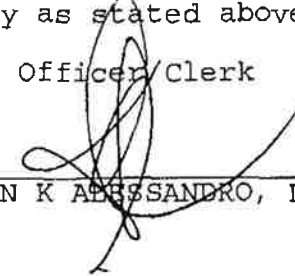
Requests for accommodations can be made by submitting Judicial Council
form MC-410 no fewer than five court days before the hearing. See
CA Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of
California, County of Riverside, and that I am not a party to this
action or proceeding. In my capacity, I am familiar with the practices
and procedures used in connection with the mailing of correspondence.
Such correspondence is deposited in the outgoing mail of the Superior
Court. Outgoing mail is delivered to and mailed by the United States
Postal Service, postage prepaid, the same day in the ordinary course
of business. I certify that I served a copy of the foregoing
notice on this date, by depositing said copy as stated above.

Dated: 10/04/13

Court Executive Officer/Clerk

By: 
RHIANNEN K ALESSANDRO, Deputy Clerk

ac:cmccc

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Boulevard, Twenty-Third Floor, Los Angeles, California 90067-4008.

On November 6, 2013, I served true copies of the following document(s) described as **DEFENDANTS TAKE-TWO INTERACTIVE SOFTWARE, INC. AND ROCKSTAR GAMES, INC.'S NOTICE OF REMOVAL** on the interested parties in this action as follows:

Rex Sofonio
Sofonio & Associates APLC
2030 Main Street, Suite 1300
Irvine, CA 92618

James R. Hawkins
James Hawkins APLC
9880 Research Drive, Suite 200
Irvine, CA 92618

Attorney for Plaintiffs


Attorney for Plaintiffs

BY FEDEX: I enclosed said document(s) in an envelope or package provided by FedEx and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of FedEx or delivered such document(s) to a courier or driver authorized by FedEx to receive documents.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 6, 2013, at Los Angeles, California.


Lisa Figueroa

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Virginia A. Phillips and the assigned Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

EDCV13-02032 VAP (SPx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

November 6, 2013

Date

By L. Murray
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☒ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

BRUCE MCMAHON, on behalf of himself; CHRISTOPHER BENGSTON, on behalf of himself; and all others similarly situated

DEFENDANTS (Check box if you are representing yourself ☐)

TAKE-TWO INTERACTIVE SOFTWARE, INC. AND TAKE-TWO INTERACTIVE SOFTWARE INC., DBA "ROCKSTAR"; and DOES 1 through 100, inclusive

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)
 Rex Sofonio; Sofonio & Associates APLC; 2030 Main St., Suite 1300; Irvine, CA 92618 (949) 260-9191
 James R. Hawkins; James Hawkins APLC; 9880 Research Dr., Suite 200; Irvine, CA 92618; (949) 387-7200

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)
 Keri E. Borders; Kelley Drye & Warren LLP; 10100 Santa Monica Blvd., 23rd Fl., Los Angeles, CA 90067 (310) 712-6100
 Michael C. Lynch (Pro Hac Vice pending); Kelley Drye & Warren LLP; 101 Park Ave., New York, NY 20038 (212) 808-7800

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
☐ 2. U.S. Government Defendant
☐ 3. Federal Question (U.S. Government Not a Party)
☒ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|---|--------------------------------|---|--------------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> PTF 1 | <input type="checkbox"/> DEF 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> PTF 4 | <input type="checkbox"/> DEF 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☐ 1. Original Proceeding
☒ 2. Removed from State Court
☐ 3. Remanded from Appellate Court
☐ 4. Reinstated or Reopened
☐ 5. Transferred from Another District (Specify)
☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ exceeds \$5 million

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. Sections 1332(d) and 1453; (1) this case is a class action under California Business & Professions Code Sections 17200 and 17500, (2) plaintiffs and putative class members are citizens of a state different from defendant, and (3) the matter in controversy exceeds \$5 million.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL PROPERTY	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input checked="" type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

ED CV 13 - 02032

VAP SPX

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court?	STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Los Angeles	Western
If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	Southern
	<input checked="" type="checkbox"/> Riverside or San Bernardino	Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action?	If the United States, or one of its agencies or employees is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF? <small>Then check the box below for the county in which the majority of DEFENDANTS reside.</small>	A DEFENDANT? <small>Then check the box below for the county in which the majority of PLAINTIFFS reside.</small>	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
	<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western

Question C: Location of plaintiffs, defendants, and claims?	A Los Angeles County	B Ventura, Santa Barbara, or San Luis Obispo Counties	C Orange County	D Riverside or San Bernardino Counties	E Outside the Central District of California	F Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. →	C.2. Is either of the following true? If so, check the one that applies: <input checked="" type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Eastern Division

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): Keri E. Borders  DATE: November 6, 2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act; as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Boulevard, Twenty-Third Floor, Los Angeles, California 90067-4008.

On November 6, 2013, I served true copies of the following document(s) described as **CIVIL COVER SHEET** on the interested parties in this action as follows:

Rex Sofonio
Sofonio & Associates APLC
2030 Main Street, Suite 1300
Irvine, CA 92618

James R. Hawkins
James Hawkins APLC
9880 Research Drive, Suite 200
Irvine, CA 92618

Attorney for Plaintiffs

Attorney for Plaintiffs

BY FEDEX: I enclosed said document(s) in an envelope or package provided by FedEx and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of FedEx or delivered such document(s) to a courier or driver authorized by FedEx to receive documents.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 6, 2013, at Los Angeles, California.


Lisa Figueroa